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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,092	04/09/2001	Richard B. Ertel	907.0012USU	1779
29683	7590	06/15/2005	EXAMINER	
HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212			PIZARRO, RICARDO M	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,092

Applicant(s)

ERTEL ET AL.

Examiner

Ricardo Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2205.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-10 is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by

US patent No. 6,005,852 (Kokko et al)

1. Regarding claim 1, Kokko discloses a Load control method and apparatus for CDMA cellular system having circuit and packet switched terminals comprising a method for operating a communication system, comprising steps of: flexibly allocating Code Division Multiple Access (CDMA) channel resources (There exist no fixed allocation of resources but all of the resources can be given to either of services. This guarantees the flexibility of the system 10 in Fig. 1) between packet-switched shared channels (packet-switched channels, col line 18) and circuit-switched dedicated channels (circuit-switched channels, col 7 lines 16-17 in order to optimize system throughput(by dynamically/flexibly controlling load in the network); and employing a side channel as required to send all or a part of a total amount of data, depending on the total amount of the data (If the number of packets to be sent exceeds a threshold –depending on the amount of data- MS 12 sends reservation request –side channel- , col 7 lines 35-39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kokko in view of Rotstein.

US patent No. 6,005,852 (Kokko et al) discloses a Load control method and apparatus for CDMA cellular system having circuit and packet switched terminals wherein a bandwidth allocation scheme allocates a set of CDMA channels for burst packet-switched channels, and where data is time division multiplexed over the set of burst packet-switched channels (an alternate embodiment discloses data being time multiplexed, col 11 lines 57-58) providing a wide bandwidth data pipe for packet-switched data.,

Kokko did not specifically disclose said subscriber stations being equipped with multiple CDMA channel receivers tuned to the burst packet-switched channels, as in claim 2.

However US patent No. 6,289,228 (Rotstein et al) discloses a Method and apparatus for reducing power consumption of a CDMA communication device,

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comprising a mobile device (device 104 in Fig. 2) including a plurality of receiver devices (receiver devices 122, 124 and 126 in Fig. 2), as in claim 2.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the subscriber station as disclosed by Rotstein to the CDMA system disclosed by Kokko to control the communication in the system by having terminal capable of originating circuit switched and packet switched traffic.

The motivation to do so is to obtain a CDMA system that avoids the problems associated with acquiring multiple channels to see in a incoming call is present.

Allowable Subject Matter

3. Claims 3-10 are allowed.

Conclusion

Applicant's arguments filed on 2/22/05 have been fully considered but they are not persuasive.

Applicant argues that Kokko does not disclose the use of a side channel by the MS depending on the amount of data. Examiner disagrees since Kokko discloses that should the amount of data exceeds a threshold, MS 12 request an additional channel sending a reservation request. See col 7 lines 35-39.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-93106

(for formal communications; please mark "EXPEDITED PROCEDURE", for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 22- 20th Street S, Crystal Plaza Two, Lobby, Room 1B03, Arlington , VA 22202 (Customer window).

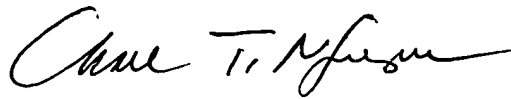
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is **(571) 272-3077**. The examiner can normally be reached on Monday-Thursday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chau Nguyen** can be reached on (571) 272-3126.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 12, 2005
Ricardo Pizarro



CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600